



YEARBOOK AND COPYRIGHT LAW

A HERFF JONES GUIDELINE TO COPYRIGHT LAW

COPYRIGHT LAW - THE BASICS

“Wouldn’t our yearbook look great with the Tasmanian Devil® on the cover?” “Let’s put the lyrics from a popular song on the endsheet.” “That photo of the President would really finish out the current events section.” Yes, you may think you have some great ideas for your yearbook, but, have you stopped to consider whether you have the legal right to include any of these works in your publication? Every yearbook staff should be familiar with the basics of copyright law.

Copyright law protects the works of authors, including original literary, musical and dramatic works. Photographs, advertisement designs and cartoon characters are protected as well. The government established copyright law to reward and stimulate the creation of these works, and to encourage their use for public benefit.

A copyright protects the way in which a creator expresses his or her idea, but not the actual idea or facts behind the idea. For example, an event like a news conference cannot be copyrighted, but a reporter can copyright his or her article about the event.

Copyright protection is unavailable for names, titles of books and movies, slogans and short advertising expressions.

ONLY THE CREATOR OF A COPYRIGHTED WORK OR THE OWNER OF A COPYRIGHT IS LEGALLY ALLOWED TO REPRODUCE, PERFORM, DISPLAY, DISTRIBUTE COPIES OF OR CREATE VARIATIONS OF A WORK. ANY UNAUTHORIZED USE OF A COPYRIGHTED WORK IS COPYRIGHT INFRINGEMENT. IF YOU INCLUDE A PIECE OF COPYRIGHTED MATERIAL IN YOUR YEARBOOK WITHOUT OBTAINING PERMISSION FROM THE COPYRIGHT OWNER, YOU CAN BE SUED FOR COPYRIGHT INFRINGEMENT.

WHEN IS A WORK COPYRIGHTED?

A work is automatically copyrighted when it is completed or placed into a “fixed” form. For example, a photograph is copyrighted. A design or a literary work is copyrighted once it is placed on paper or saved on a computer. An original work does not have to be published to receive copyright protection.

A PHOTOGRAPH, DESIGN WORK AND LITERARY WORK ARE EXAMPLES OF MATERIAL THAT ARE AUTOMATICALLY COPYRIGHTED WHEN COMPLETED OR PLACED INTO A “FIXED” FORM.

Be sure to obtain permission before you include any of the following items in your yearbook or other student publication:

- photos clipped or scanned from newspapers or magazines
- excerpts from books or magazines

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- cartoon characters or student drawings of a popular character (Mickey Mouse®, for example)
- photos of characters from movies or television
- CD or album cover artwork
- magazine cover artwork, logos or graphics
- song lyrics, phrases or lines from songs
- works of art (painting or literature, unless in public domain)
- all other creative works

This also applies to electronically scanning a copyrighted picture, character, etc., and making your own alterations to it using a computer. Even though you may be creating something that looks different from the original protected work, you should obtain permission from the copyright owner. This is the only way to be 100% certain that reproducing the work will not result in a copyright infringement lawsuit. If you have doubts about whether it is necessary to obtain permission to use an item, consult your school's attorney.

FAIR USE

There are some exceptions to a copyright owner's exclusive rights to his or her creative works, such as "fair use." However, these exceptions are easily misunderstood and often misinterpreted. Also, copyrights do not last forever and older works once protected by copyright may now be in the public domain. However, the rules of copyright duration are complicated and it is often difficult to determine when a work is no longer protected by copyright. To be safe, you should not rely on these exceptions or assume a work is in the public domain. Instead, it is best to seek permission to use all creative works.

OBTAINING PERMISSION TO USE COPYRIGHTED MATERIAL

To obtain permission to reproduce a copyrighted item, you must contact the copyright owner. The copyright information on the item should contain the name of the copyright owner or the wording requested by the copyright owner when permission is granted to use the material.

HINTS FOR LOCATING COPYRIGHT INFORMATION:

- Book: look on the title page or on the back of the title page
- Cartoon Characters: see material or merchandise where the characters appear
- Photographs: look at the caption
- CDs: look at the printed material with the disk

To obtain permission to reprint a work from a record company or a publishing company, the American Association of Publishers recommends writing to the permissions department of the company and supplying:

- the title, author or editor of the work and the date of publication
- a photocopy of the work, if possible, or a description of exactly what is to be used
- the number of copies that will be made
- why the copied material will be used

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- whether the material will be sold
- how the copied material will be distributed
- how the material will be reprinted (photocopy, typeset, etc.)

Be sure to allow ample time when you are requesting permission to reproduce a work. It can take months to receive a reply and to negotiate with the copyright holder.

THE HERFF JONES POLICY

If you are using a work in your yearbook that is protected by copyright and you have obtained written permission from the owner to reproduce it, submit a photocopy of that proof of permission to Herff Jones with your pages.

Much copyrighted material is not universally known. Ultimately, only you know whether the material in your yearbook is your own original work. If Herff Jones happens to recognize copyrighted material for which proof of permission has not been furnished, we will notify you of the possibility of copyright infringement. If in doubt, check it out! This is to protect both you and Herff Jones from possible copyright infringement and litigation resulting from infringement.

Your Printing Agreement with Herff Jones provides that you assume all legal liability for failure to obtain permission to use copyrighted material.

IN CONCLUSION

Copyright law involves intangible, intellectual property. It is often complicated and can be interpreted in different ways by different individuals. If you plan to include anything in your yearbook that is not your own, such as a photo, a song lyric or a cartoon character, it is always best to consult the owner of the copyright.

FOR MORE INFORMATION ABOUT COPYRIGHT ISSUES, CONTACT:

Student Press Law Center
1101 Wilson Blvd., Suite 1100
Arlington, VA 22209-2275
Telephone: 703.807.1904
www.splc.org

Herff Jones always recommends that a school confer with its attorney prior to submitting material that may be copyrighted.

This guideline is provided as a courtesy to customers of Herff Jones, Inc. It is not intended to be used in lieu of the advice of a qualified attorney.

SOURCES:

Copyright Law: A Primer, Student Press Law Center Report, Winter 1988-89, pp. 34-36.
Lanquist, Jr. Edward D., Patent, Copyright and Trademark Law for the General Practitioner Answering Questions and Dispelling the Myths, 1993.

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